

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

GIDGET HARRIS,

Plaintiff,

v.

ANGINELL ANDREWS, et al.,

Defendants.

Hon. Hugh B. Scott

02CV248

(CONSENT)

Order

Before the Court is plaintiff's motion for appointment of counsel (Docket No. 41; see Docket No. 40, Order inviting renewed application). The parties consented to proceed before the undersigned as Magistrate Judge (Docket No. 11).

The Court issued a Decision and Order (Docket No. 33) and entered a Judgement (Docket No. 35) dismissing this action for plaintiff's failure to comply with the terms of the Prison Litigation Reform Act, 42 U.S.C. § 1997e. The United States Court of Appeals for the Second Circuit vacated the judgment of this Court (Docket No. 35; see Docket No. 33) and remanded this case for further proceedings (Docket No. 39). "On remand, based on this Court's decision in Hemphill v. New York, 380 F.3d 680, 686 (2d Cir. 2004), the district court must determine whether appellant was justified in not pursuing a grievance accordance with the grievance procedures set forth by the New York Department of Correctional Services." (Docket No. 39.)

In light of this mandate and the complexity of the analysis under this caselaw, plaintiff's motion is **granted**. The Court appoints **Rochelle M. Jones, Esq.**, as counsel for the plaintiff, pro

bono, pursuant to 28 U.S.C. § 1915(d). Hodge v. Police Officers, 802 F.2d 58 (2d Cir. 1986); Cooper v. A. Sargenti Co., 877 F.2d 170 (2d Cir. 1989).

The file for this matter is maintained in the Office of the Clerk of the United States District Court in Buffalo, New York. If necessary, the attorney for the plaintiff should make arrangements to meet with a Pro Se Staff Attorney to review the file and obtain copies of the relevant papers.

The Court also entered a briefing schedule (Docket No. 40) for a renewed motion for summary judgment. Motions or notice of intention not to file a motion were due by June 1, 2005, but no notice or motion were filed. Nevertheless, that schedule is **stayed** pending appointed counsel getting up to speed on this case. A status conference will be held on **August 16, 2005**, at **10:30 am**, and a new briefing schedule will be entered at that date.

So Ordered.

s/HBS
Hon. Hugh B. Scott
United States Magistrate Judge

Dated: Buffalo, New York
June 14, 2005